

United States District Court

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

V.

Fabio Alberto Lopez-Yepes

CRIMINAL COMPLAINT

CASE NUMBER: MJ04-M-207 JLA

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about May 21, 2003 in Suffolk county, in the

District of Massachusetts defendant(s) did, (Track Statutory Language of Offense)

being an alien against whom a final order of removal is outstanding by reason of being a member of a class described in 8 U.S.C. Section 1227(a), willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure

in violation of Title 8 United States Code, Section(s) 1253(a)(1)(B).

I further state that I am a(n) Supervisory Detention and Deportation Officer and that this complaint is based on the following facts:

Official Title

See attached Affidavit.

Continued on the attached sheet and made a part hereof:

☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

5/12/04
Date

at

City and State

JOYCE LONDON ALEXANDER
UNITED STATES MAGISTRATE JUDGE

Name & Title of Judicial Officer

Signature of Judicial Officer

AFFIDAVIT OF JOSEPH O'MALLEY

I, Joseph A. O'Malley, having been duly sworn, do hereby depose and state as follow:

1. I am a Supervisory Detention & Deportation Officer with United States Immigration and Customs Enforcement (ICE), formerly the Immigration and Naturalization Service (INS). I have been employed by ICE (INS) since 1993. My duties include supervising the procurement of travel documents to enforce orders directing the removal of aliens from the United States.

2. I make this affidavit in support of a criminal complaint against an individual named Fabio Alberto Lopez-Yepes, also known as Fabio Lopez, charging him with failure or refusal to make timely application for documents necessary to the alien's departure, in violation of Title 8, United States Code, Section 1253(a)(1)(B).

3. The information set forth in this affidavit is based on my own investigation, and my review of ICE records, as well as information provided by other law enforcement officials.

4. Fabio Alberto Lopez-Yepes is a native and citizen of Colombia. His ICE Alien File ("A-file") indicates that

he first entered the United States at or near Miami, FL on or about December 3, 1998. Lopez-Yepes was served a Notice to Appear on August 27, 2001. Lopez-Yepes was charged with removability under Immigration and Nationality Act ("INA") Section 237(a)(1)(B), 8 U.S.C. § 1227(a)(1)(B), in that he had remained in the United States for a longer time than permitted, and under INA Section 237(a)(2)(A)(i), 8 U.S.C. § 1227(a)(2)(A)(i), in that he had been convicted of a crime involving moral turpitude committed within five years after admission for which a sentence of one year or longer may be imposed. (Lopez-Yepes was convicted of Threatening Bodily Harm in Brighton, MA, District Court on February 21, 2001).

5. On or about March 4, 2003, following removal proceedings, Lopez-Yepes became subject to a final administrative order of removal. A Warrant of Removal was issued on March 21, 2003.

6. In March, 2003, a request was sent to the Consulate of Colombia to obtain travel documents to enforce the Warrant of Removal and remove Lopez-Yepes to Colombia.

7. In connection with ICE attempts to secure the necessary travel documents in order to enforce the Warrant of Removal, on May 21, 2003, Lopez-Yepes was presented to the Consulate of Colombia to be interviewed for issuance of

the necessary travel document. At that interview, on May 21, 2003, Colombian Vice Consul Isabel Pardo requested that Lopez-Yepes sign the travel document that was to be issued by the Consulate of Colombia.

8. I have reviewed the documents contained in Lopez-Yepes' Alien file (A-file A78 635 828) maintained by ICE and that file contains a memorandum prepared by Immigration Enforcement Agent William Pitts indicating that on May 21, 2003, Lopez-Yepes refused to sign the travel document.

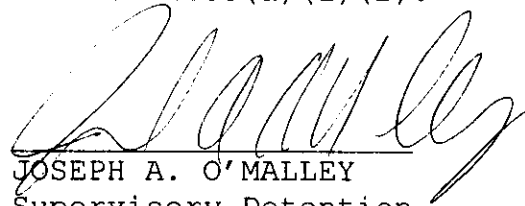
9. The Consulate of Colombia has indicated that without Lopez-Yepes signature it cannot issue the travel document necessary for the enforcement of the Warrant of Removal against Lopez-Yepes.

10. On September 17, 2003, Lopez-Yepes was again presented to the Consulate of Colombia to be interviewed for the issuance of the necessary travel document. At that interview, Lopez-Yepes was asked by the staff of the Consulate of Colombia to sign the travel document. According to a memorandum prepared by Immigration Enforcement Agent William Pitts, Lopez-Yepes again refused to sign the travel document. Lopez-Yepes' A-file also contains a letter prepared by Mr. Juan R. Villa, Consul, Consulate of Colombia, indicating that on September 17,

2003, Lopez-Yepes refused to sign a travel document that was to be issued by the Consulate of Colombia.

11. On December 12, 2003, Lopez-Yepes was again presented to the Consulate of Colombia to be interviewed for the issuance of the necessary travel document. According to a memorandum prepared by Supervisory Immigration Enforcement Agent Alan Greenbaum, Lopez-Yepes again refused to sign his travel document on December 12, 2003.

12. Based on the foregoing, I believe there is probable cause to believe that Fabio Alberto Lopez-Yepes is an alien against whom a final order of removal is outstanding by reason of being a member of a class described in 8 U.S.C. § 1227(a) who has willfully failed or refused to make timely application in good faith for travel or other documents necessary to the alien's departure, in violation of Title 8, United States Code, Section 1253(a)(1)(B).


JOSEPH A. O'MALLEY
Supervisory Detention
and Deportation Officer
ICE

Subscribed and sworn to before me this 12 day of
May, 2004.


JOYCE LONDON ALEXANDER
UNITED STATES MAGISTRATE JUDGE

Criminal Case Cover Sheet**U.S. District Court - District of Massachusetts**Place of Offense: _____ Category No. II Investigating Agency ICECity BOSTON Related Case Information:County SUFFOLK Superseding Ind./ Inf. _____ Case No. _____
Same Defendant _____ New Defendant _____
Magistrate Judge Case Number _____
Search Warrant Case Number _____
R 20/R 40 from District of _____**Defendant Information:**Defendant Name FABIO ALBERTO LOPEZ-YEPES Juvenile ☐ Yes ☒ NoAlias Name FABIO LOPEZ

Address _____

Birth date (Year only): _____ SSN (last 4 #): _____ Sex M Race: _____ Nationality: COLOMBIAN

Defense Counsel if known: _____ Address: _____

Bar Number: _____

U.S. Attorney Information:AUSA CHRISTOPHER F. BATOR Bar Number if applicable _____Interpreter: ☒ Yes ☐ No List language and/or dialect: _____Matter to be SEALED: ☐ Yes ☒ No☒ Warrant Requested ☐ Regular Process ☐ In Custody**Location Status:**

Arrest Date: _____

☐ Already in Federal Custody as _____ in _____☐ Already in State Custody _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by _____ on _____Charging Document: ☒ Complaint ☐ Information ☐ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☐ Felony _____

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: 5/12/04Signature of AUSA: [Signature]

JS 45 (5/97) - (Revised USAO MA 3/25/02) Page 2 of 2 or Reverse

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant FABIO ALBERTO LOPEZ-YEPES

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>8 U.S.C. §1253(a)(1)(B)</u>	<u>Failure to apply for travel/removal documents</u>	_____
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: _____